

R E M A R K S

Claim 1 has again been amended to clarify its recital of certain novel and distinguishing features of the invention. As herein amended, claim 1 remains generic to the elected species and subspecies of the invention. Since this Amendment does not increase either the total number of claims or the number of independent claims, no additional fee is necessary.

Claims 1 (independent) and 2 - 6, 8 - 10, 18 - 21, 29 and 30 (all dependent on 1) are in the application. Of these, claims 4, 6 and 8 have been withdrawn from consideration pursuant to an election of species, and claims 1 - 3, 5, 18 - 21, 29 and 30 have been rejected as anticipated by or unpatentable over the cited art. No claim has been allowed, but claims 9 and 10 have been indicated to be allowable if rewritten in independent form including all the limitations of the claim or claims on which they depend.

In response to the rejection of claim 1 under 35 U.S.C. §102(b) as anticipated by Sarica, the claim has been further amended to delete the word "long" from the term "long geometrical axis" because the term "long geometrical axis" as such is not found in the specification, whereas the term "geometrical axis" (of a body) is expressly set forth, and by necessary implication precisely defined, therein.

At p. 16, lines 7-17, the specification states that

"In the embodiment of FIGS. 16-19, the closing means is a generally cylindrical cover member **102** which snugly and concentrically surrounds the portion of cylindrical housing member **94** containing the reservoir **98**. This cover member . . . is formed with a lateral opening **104** positioned and dimensioned for register with the reservoir **98** to enable access to the contents thereof, and is suitably mounted so as to be manually rotatable about the geometrical axis of housing member 94 . . ."
(emphasis added).

A generally cylindrical member which snugly and concentrically surrounds another cylindrical member can rotate relative thereto

about only one axis, viz., the center line or axis of symmetry of the latter member (which is, of course, also the center line or axis of symmetry of the surrounding member, since the two members are concentric). Hence, the term "geometric axis of housing member 94" as set forth in applicant's specification unambiguously means the center line or axis of symmetry of the housing member.

No other or inconsistent use of the term "geometrical axis" occurs in the specification (although, in the description of FIGS. 9-11 at p. 14, lines 4-6, the term "long axis" is synonymous with "geometrical axis" as employed at p. 17). In contrast, the single description of rotation about an axis displaced from the center line or axis of symmetry of a body (specification, p. 15, lines 19-22, discussing the device of FIGS. 12-15, which is excluded from the scope of present claim 1) states that "A cover . . . [pivots] about an axis parallel to the long dimension of the housing member" (emphasis added).

It is well settled that a patent applicant may be his own lexicographer, and that if a claim term is given a particular definition in the specification, it will be construed as having that definition. Thus, the term "geometrical axis" of a body, in the specification and claims of the present application, is to be construed as meaning the center line or axis of symmetry of that body.

Claim 1 as herein amended recites that in the claimed dispenser, the cover and the receptacle are relatively rotatable about or relatively slidable along the geometrical axis (i.e., the center line or axis of symmetry) of the container unit to open and close the receptacle. Sarica does not show or suggest any relatively slidable cover and receptacle. In the only device disclosed by Sarica, the container unit is constituted of a cover **1A** and a component **1B** (of which the receptacle **8** is an integral part) connected to each other by a hinge **5** extending along one long side of the container unit (col. 1, lines 65-68). The only axis about which the Sarica cover and receptacle are relatively

rotatable is the hinge axis, which is located at one side of the container unit, spaced away from the center line or axis of symmetry of Sarica's container unit. In other words, Sarica does not teach any combination of a cover and receptacle that are relatively rotatable about the center line or axis of symmetry ("geometrical axis," in the terminology of applicant's claim 1) of a container unit.

It follows that Sarica does not anticipate present claim 1, or any of the other rejected claims, all of which are dependent on claim 1.

Moreover, nothing is seen in Sarica to suggest modifying the disclosure of the reference in any way that would meet the recitals of present claim 1. As explained in applicant's previously filed First Amendment after Final Rejection, the feature of providing a cover and receptacle that are relatively rotatable about or slidable along the center line or axis of symmetry ("geometrical axis") of the container unit - the feature not taught or suggested by Sarica - affords desirable advantages over the Sarica device. The recital of that feature therefore distinguishes present claim 1 (and all claims dependent thereon) patentably over Sarica. Giese et al. and Ebbets, III et al., combined with Sarica in the rejection of certain dependent claims (19 - 21), add nothing with respect to the novel and distinguishing feature of claim 1.

In the aforementioned Office Action, the Examiner asserts that the hinge axis of Sarica is a "geometrical axis," contending that the term "geometrical axis" lacks any specific limiting definition in the disclosure sufficient to preclude the term from encompassing the Sarica hinge axis. Applicant respectfully disagrees. In the first place, as noted above, applicant's specification at p. 17 clearly and unambiguously defines the term "geometrical axis" (of a body) by usage as meaning the center line or axis of symmetry of the body. Secondly, claim 1 does not use the term "geometrical axis" in vacuo, but recites it as the geometrical axis of a body - i.e., of the container unit. The

referent (container unit) for the term "geometrical axis" means that the axis is defined apart from any actual or notional rotation or orientation, though it becomes the axis of relative rotation (or sliding) of components of the body. The Sarica components undergo relative rotation about the side-located geometric axis of the hinge 5; but that is not the geometric axis of the container unit, and does not provide the aforementioned advantages achieved by applicant's invention.

The objection to claims 9 and 10 as dependent on a rejected claim is overcome by the allowability of claim 1. Accordingly, it is unnecessary to rewrite claims 9 and 10 in independent form.

In view of the allowability of amended claim 1, which is generic to the species of withdrawn claims 4, 6 and 8 as well as to the elected species, it is submitted that the withdrawn claims should be considered on the merits, and allowed.

For the foregoing reasons it is believed that this application is now in condition for allowance. Favorable action thereon is accordingly courteously requested.

Respectfully,

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I hereby certify that this paper is being deposited this date with the U.S. Postal Service as first class mail addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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